

**REMARKS**

In accordance with the foregoing, claims 1, 6, 13, 21, 25, 26, 29 and 31 have been amended. No new matter is being presented. Therefore, claims 1-32 are pending and reconsideration is respectfully requested.

**ENTRY OF AMENDMENT UNDER 37 C.F.R. §1.116:**

Applicants request entry of this Rule 116 Response because claims 1, 6, 13, 21, 25, 26, 29 and 31 have been amended to improve the form of clarity of the language of these claims and because these amendments should not entail any further search by the Examiner since no new features are being added or no new issues are being raised.

The Manual of Patent Examining Procedures sets forth in §714.12 that "any amendment that would place the case either in condition for allowance or in better form for appeal may be entered." Moreover, §714.13 sets forth that "the Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

**REJECTIONS UNDER 35 U.S.C. §102:**

Claims 1, 3-8, 10-13, 15-17, 21, 23-27, 29, and 31-32 are rejected under 35 U.S.C. §102(b) as being anticipated by Matsuda (U.S. Patent 6,256,273). These rejections are traversed.

Regarding the rejections of claims 1, 6, 13, 21, 25, 26, 29 and 31, it is noted that the previously submitted remarks in support of the patentability of the claims as they now stand are hereby reiterated and incorporated into the present response. In addition, it is noted that, the "Response to Arguments" section of the Office Action, the Examiner has stated that the reference to Matsuda discloses the claimed function of moving an objective lens in response to the drive signal is given in the focus jumping method of column 5, lines 18-25 and column 6, lines 35-64.

Responsively, applicants note that Matsuda is directed to moving an objective lens from

one recording surface to another in response to a drive signal, and that the claimed invention is wholly different. The claimed invention recites moving an objective lens away from a disc in the particular instance during which a level of a pull-in signal, which reflects a distance between the objective lens and the disc, remains lower than a predetermined critical level for at least a predetermined critical period of time. Nothing in the reference discloses moving an actuator away from a disc in the particular instance during which "a level of a pull-in signal remains lower than a predetermined critical level for at least a predetermined critical period of time," as claimed.

That is, while the reference appears to disclose moving an actuator in a "direction perpendicular to the surface of the disc 1 in accordance with a level and a polarity of a drive signal," see *Matsuda at column 5, lines 23-25*, the moving of the actuator is simply a result of a command to change a recording surface onto which read light is focused, as will be discussed in more detail below. As to the particularly claimed features, the reference fails to disclose a pull-in signal that reflects a distance between the objective lens or the pickup and the disc. Further, since the claimed pull-in signal is not shown in the reference, applicants assert that the reference certainly fails to disclose moving the objective lens or the pickup on the basis of the level of such a signal.

With respect to the second cited section of the reference applicants note that the disclosures therein do not provide additional support to the rejections. Indeed, the first sentence states that when "a focus jump instruction signal FTRIG to move the focal position of the read light to the other recording surface...(emphasis added)" the drive signal is altered such that a focal point of read light is focused on the "new target recording surface." In other words, the drive signal moves the actuator 30 in response to a command that the recording surface is changed. This is in stark contrast to the claimed invention, in which the drive signal is only generated when the pull-in signal is found to be below a certain level for a certain period of time.

Moreover, although it should be clear from the above discussion, applicants note that the drive signal disclosed by the reference to Matsuda is not analogous to the pull-in signal of the claimed invention as would be necessary for the rejections to hold water. As noted above, the claimed pull-in signal reflects a distance between the objective lens and/or the pickup and the disc. Meanwhile the drive signal of Matsuda is merely a signal that is generated when a command to change a recording surface is given.

Thus, applicants assert that claims 1, 6, 13, 21, 25, 26, 29 and 31 are patentably

distinguished from the reference to Matsuda and that, therefore, the rejections of these claims are overcome.

Regarding the rejections of claims 3-5, 7, 8, 10-12, 15-17, 23, 24, 27 and 32, it is noted that these claims depend from claims 1, 6, 13, 21, 25, 26, 29 and 31 and are, therefore, allowable for at least the reasons set forth above.

**REJECTIONS UNDER 35 U.S.C. §103:**

Claims 2, 9, 14, 18-20, and 22 are rejected under 35 U.S.C. §103(a) as being unpatentable over Matsuda (U.S. 6,256,273) in view of Kubota (U.S. Patent Publication 2002/0101800), claims 28 and 30 are rejected under 35 U.S.C. §103(a) as being unpatentable over Matsuda (U.S. 6,256,273) in view of Maeda (U.S. Patent 6,977,782).

**CONCLUSION:**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited. If there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

Finally, if there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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